## Before the Federal Communications Commission Washington, D.C. 20554

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COMTRONICS CORPORATION Industrial/Business Pool Station WIL823, Boston, Massachusetts	) ) )	File No. 0004595911
In the Matter of	)	

Adopted: April 4, 2011 Released: April 5, 2011

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

- 1. We have before us a petition<sup>1</sup> filed by DCC Engineering (DCC) to deny the above-captioned application<sup>2</sup> filed by Comtronics Corporation (Comtronics). For the reasons set forth below we deny DCC's petition, and will process the application.
- 2. Comtronics is the licensee of Industrial/Business Pool Station WIL823, Boston, Massachusetts, which is authorized to operate a base station on, *inter alia*, frequency 484.6125 MHz, and seventy-nine mobile units on frequencies 484.6125 MHz and 487.6125 MHz. DCC is the licensee of Station WPKU899, Waltham, Massachusetts, which is authorized to operate a base station on frequency 484.6125 MHz, and nineteen mobile units on frequencies 484.6125 MHz and 487.6125 MHz. On January 31, 2011, Comtronics filed an application to modify the license for Station WIL823 to add narrowband emission designators in order to comply with the upcoming narrowbanding deadline,<sup>3</sup> and to change the station class code from conventional (IG) to trunked (YG). On February 4, 2011 DCC filed its petition to deny the application. Comtronics responded to DCC on February 8, 2011,<sup>4</sup> and on February 18, 2011 amended the application to reduce the number of mobile units on frequencies 484.6125 MHz and 487.6125 MHz from seventy-nine to seventy-one.
- 3. DCC first argues that the application should be denied because Comtronics's current base station operations are causing interference to DCC.<sup>5</sup> Except as otherwise specifically provided, frequencies below 512 MHz assigned to land mobile stations are available on a shared basis and will not be assigned for the exclusive use of any licensee.<sup>6</sup> We expect licensees to cooperate in the use of these

<sup>&</sup>lt;sup>1</sup> See Petition to Deny filed on February 4, 2011 by DCC Engineering (Petition).

<sup>&</sup>lt;sup>2</sup> FCC File No. 0004595911 (filed on Jan. 31, 2011 and amended on Feb. 18, 2011).

<sup>&</sup>lt;sup>3</sup> See 47 C.F.R. § 90.209(b)(5).

<sup>&</sup>lt;sup>4</sup> See Letter dated Feb. 8, 2011 from Catherine Leonard, Comtronics to Terry Fishel, Mobility Division, Wireless Telecommunications Bureau (Opposition).

<sup>&</sup>lt;sup>5</sup> See Petition at 1.

<sup>&</sup>lt;sup>6</sup> See 47 C.F.R. § 90.173(a).

frequencies. Consequently, Comtronics and DCC are equally entitled to use the frequency, and this constitutes no basis for denying Comtronics's modification application. 8

- 4. DCC also argues that the frequency loading exceeds the limit of ninety units<sup>9</sup> without DCC's consent, and that DCC also did not consent to the proposed change in station class code.<sup>10</sup> We note that Comtronics now proposes to modify the license to reflect only seventy-one mobile units, which would bring the total loading to ninety units. Moreover, we agree with Comtronics that, because neither licensee utilizes centralized trunking, DCC's consent to the proposed change in station class code is not required.<sup>11</sup> We therefore deny DCC's petition, and will process Comtronics's modification application accordingly.
- 5. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Petition to Deny filed on February 4, 2011 by DCC Engineering, IS DENIED, and application FCC File No. 0004595911 SHALL BE PROCESSED in accordance with this *Order* and the Commission's Rules.
- 6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

Scot Stone Deputy Chief, Mobility Division Wireless Telecommunications Bureau

<sup>&</sup>lt;sup>7</sup> See 47 C.F.R. § 90.173(b).

<sup>&</sup>lt;sup>8</sup> See, e.g., Ted S. Henry, *Letter*, 22 FCC Rcd 662, 663 (WTB MD 2007). DCC also states that Comtronics operates with more power than its license authorizes. If DCC has evidence that Comtronics is operating in an unauthorized manner, it should bring the information to the attention of the Commission's Enforcement Bureau.

<sup>&</sup>lt;sup>9</sup> 47 C.F.R. § 90.313(a)(2).

<sup>&</sup>lt;sup>10</sup> See Petition at 1.

<sup>&</sup>lt;sup>11</sup> See Opposition at 1; see also 47 C.F.R. § 90.313(b).